

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:02-CR-291

v.

HON. ROBERT HOLMES BELL

DEMARCUS LEON CARTER,

Defendant.

_____ /

MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #131). Based on a review of defendant's motion, the Sentence Modification Report, submission by counsel for both parties, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced on June 25, 2003 to 268 months custody and 5 years supervised release following his conviction for Possession and Aid and Abet in the Possession with intent to Deliver over 500 Grams of Cocaine contrary to 21 U.S.C. §841(a)(1), 841(b)(1)(B)(ii), 18 U.S.C. §2. On August 12, 2004, the Court reduced defendant's term of custody to 216 months following the granting of a Rule 35(b) motion. On June 1, 2011, the defendant's sentence was reduced to 172 months due to the retroactive

application of Amendments 706 and 711 to the United States Sentencing Guidelines. The Sentence Modification Report prepared by the United States Probation Office calculated defendant's guideline range at that time to be 188 to 235 months based on a total offense level of 33 and a criminal history category IV. On June 23, 2011, the defendant's sentence was reduced to 156 months following the granting of the government's second Rule 35(b) motion.

The Sentence Modification Report prepared as a result of defendant's Amendment 750 motion states that defendant's total offense level, criminal history category, and guideline range remain unchanged from the last sentence modification.

Since Amendment 750 does not result in a lower guideline range, defendant is not eligible for a sentence reduction under 18 U.S.C. §3582(c)(2) and USSG §1B1.10(a)(2)(B).

ACCORDINGLY, defendant's motion (docket #131) is **DENIED**.

Date: June 15, 2012

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE